

September 6, 1985

STATEMENT OF PATRICK D. SPURGIN
BEFORE THE NUCLEAR REGULATORY COMMISSION
ON BEHALF OF
THE STATE OF UTAH

The Nuclear Regulatory Commission has a paramount responsibility to assure the protection of the public health and safety in the face of uncertainties associated with the disposal of nuclear waste. As with all federal agencies, the Commission also has a responsibility to consider the environmental impacts arising from its decisions and, in accordance with the National Environmental Policy Act, to assure that environmental impacts are taken into account at an early stage in the decision-making process. The probability that these ends will be served is maximized by early and vigorous NRC involvement in those DOE activities directed toward identifying potential repository sites.

The State of Utah opposes any further consideration of sites within the State as either potentially acceptable sites or candidate sites for a nuclear waste repository. This opposition is based on fundamental flaws in the program which is being conducted to identify, characterize, and recommend a site for a nuclear waste repository. The State of Utah would willingly entertain consideration of Utah sites in the Department of Energy's program only if these flaws are eradicated.

In 1984, the State urged the Commission to withhold concurrence on the DOE site selection guidelines. We regretfully believe that, by concurring with the Department of Energy's use of lax evidentiary standards in the site selection guidelines, the NRC has, in part, compromised its responsibilities for the protection of health, safety and the environment. This concurrence has enabled the Department of Energy to proceed with preliminary site nomination decisions and, potentially, with site characterization recommendation decisions on the basis of grossly incomplete data.

As we now understand it, the purpose of this meeting is to afford the states, tribes and other parties an opportunity to discuss directly with the Commission the timing of the preliminary determination of suitability required by Section 114 (f) of the Nuclear Waste Policy Act. We believe that the preliminary determination is inextricably tied to the nature of the work which precedes it. We do not believe that DOE has gathered and analyzed sufficient data at this point to enable a reasonable affirmative determination of the suitability of the Utah sites for any purpose. On the other hand, the Section 114 (f) determination of suitability, if it is to occur after site characterization has been completed, would be an inadequate substitute for careful consideration of health, safety and environmental impacts arising from earlier Department of Energy decisions. Although the State of Utah recognizes the national importance of the nuclear waste program, the State of Utah has no desire to be considered as a candidate site as a result of sketchy data collection prior to site recommendation decisions.

The State, therefore, cannot look favorably upon an isolated conclusion concerning Section 114 (f) if it will have the practical effect of increasing the probability of future consideration of the sites within Utah without prior eradication of the flaws in the site screening and recommendation program.

If the NRC is inclined to reconsider its concurrence in the guidelines, the Commission must go beyond merely considering the timing of the Section 114 (f) determination of suitability. We believe that much of the urgency related to the clarification of the provisions of Section 114 (f) would be eliminated if appropriate standards for data gathering and analysis in site screening and recommendation decisions were employed.

Thank you.